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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/629,018

07/29/2003

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EXAMINER

TRAN LIEN, THUY

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/629,018	<b>Applicant(s)</b> MORAD ET AL.	
	<b>Examiner</b> Lien T. Tran	<b>Art Unit</b> 1794	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 35-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

Claims 35-46, 48, 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Graaf et al.

Van Der Graaf et al disclose a composite dough product comprising a puff pastry dough sheet having attached thereon a sheet of another dough which acts as an anchoring layer. The anchoring dough can be pizza dough, bread dough, shortcrust and cake pastry. It is known to provide a bottom crust for a pizza which is a laminate of puff pastry as the lower layer and a normal pizza crust as the upper layer. After baking, the composite layer is provided with a moisture-barrier layer. The puff pastry is prepared as shown in example 1 and has a water content of 31.61%. Different fillings are applied to the composite dough layers. Filled product is frozen. ( col. 1 lines 65-68 and col. 3)

Van Der Graaf et al do not disclose the moisture content of the second dough layer, the thickness of the dough layers, forming a pouch type product, the moisture and fat content of the second layer, the thickness ratio and a moisture barrier between the two dough layers.

Van Der Graaf et al disclose the second layer can be a pizza dough; thus, it would have been obvious to one skilled in the art to make a yeast leavened dough because pizza dough is commonly leavened by yeast. It would have been obvious to one skilled in the art to determine the appropriate moisture content depending on the texture wanted. Determination of the appropriate moisture content to obtain optimum texture and taste would have been within the routine experimentation for one skilled in the art. It would have been obvious to form the dough layers in any thickness and

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thickness ratio depending on the texture and taste wanted. Thinner crust provides a crunchier texture than a thicker crust. The degree of thickness would have been a matter of preference. It would have been obvious to form a pouch type product when desiring a closed configuration to prevent filling from dripping. Such configuration for filled food product is notoriously well known in the art. It would have been obvious to vary the amount of fat depending on the fat content wanted and the texture desired. Van Der Graaf et al teach putting a moisture barrier layer on top; however, it would also have been obvious to place a moisture barrier layer between the dough layers to further protect the lower layer from moisture migration of filling material through the first dough layer. This will further enhance the stability and shelf life of the product.

Claims 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Graaf et al in view of Bauman et al.

Van Der Graaf et al do not disclose putting an adhesive layer between the two dough layers.

Bauman et al teach adding a binding agent such as water or starch glue between two dough layers to form a seal between the layers. ( col. 4 lines 54-65)

It would have been obvious to add an adhesive layer as taught by Bauman et al between the dough layers of the Van Der Graaf et al product when desiring to seal the two layers to ensure that separation of the layers will not occur.

In the RCE filed 5/7/08, applicant submits a 132 declaration as secondary evidence in an attempt to overcome the rejection; however, the declaration is not found to be persuasive. The declaration states that the rejection asserts that the puff pastry

layer formed in the primary references is identical to the thin .9mm layer claimed. This statement is not totally accurate. The rejection sets forth that the puff pastry layer in the Van Der Graaf composite dough is the same at the first unleavened outer layer as claimed; however, Van der Graaf does not disclose the thickness. The position taken is that varying the thickness to obtain certain texture would have been an obvious matter of preference. The declaration states that the typical thickness of uncooked puff pastry layer is approximately 2-4mm. The key word in this statement is " typical". While the typical thickness is 2-4mm, there is no restriction or rule that states that the thickness has to be in this range and cannot be thinner. The declaration has not submitted any evidence to show that the thickness can only be in this range and cannot be thinner. For example, filo pastry dough is paper thin. Varying the thickness of the dough layer is an obvious matter of preference of the individual baker. The result that a thin layer gives crispier texture is not unexpected; instead, it is an expected result and supports the position that it would have been obvious to change the thickness of the dough to obtain the desired texture. The declaration states one would not substitute a puff pastry layer for any layer in a pizza dough; this is a conclusion without supporting factual evidence. The claims recite a multi-component dough having a first unleavened outer dough layer and a second yeast leavened inner dough layer; Van Der Graaf et al teach such a composite dough. Varying the thickness would have been an obvious matter of preference and the declaration has not submitted any factual evidence to refute this position.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 8, 2008

/Lien T Tran/

Primary Examiner, Art Unit 1794